

HOUSE No. 908

By Mr. Mariano of Quincy, petition of Ronald Mariano relative to the penalty for the crime of aggravated assault or assault and battery. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand and Five.

AN ACT RELATIVE TO THE CRIME OF AGGRAVATED ASSAULT.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 265 of the General Laws is hereby
2 amended by striking out section 13A, as appearing in the 2002
3 Official Edition, and inserting in place thereof the following
4 section:—

5 Section 13A. (a) Whoever commits an assault or an assault and
6 battery upon another shall be punished by imprisonment for not
7 more than two and one-half years in a house of correction or by a
8 fine of not more than one thousand dollars, or by both such fine
9 and imprisonment.

10 A summons may be issued instead of a warrant for the arrest of
11 any person upon a complaint for a violation of any provisions of
12 this subsection if in the judgment of the court or justice receiving
13 the complaint there is reason to believe that he will appear upon a
14 summons.

15 (b) Whoever commits an assault: (i) upon a person under four-
16 teen years of age; or (ii) upon a mentally retarded person knowing
17 such person to be mentally retarded; or (iii) upon a person sixty
18 years of age or older; or (iv) upon a person with a disability, as
19 defined by section 13K of this chapter; or (v) upon another who is
20 pregnant at the time of such assault, knowing or having reason to
21 know that the person is pregnant; or (vi) upon another who he
22 knows has an outstanding temporary or permanent vacate,

23 restraining, or no-contact order or judgment issued pursuant to
24 section eighteen, thirty-four B or thirty-four C of chapter two hun-
25 dred and eight, section thirty-two of chapter two hundred and
26 nine, section three, four or five of chapter two hundred and nine
27 A, or section fifteen or twenty of chapter two hundred and nine C,
28 in effect against him at the time of such assault and battery; or
29 (vii) after entering the dwelling of another with the intent to
30 commit the assault; or (viii) by means of a dangerous weapon
31 shall be punished by imprisonment in state prison for not more
32 than three years or in the house of correction for not more than
33 two and one-half years or by a fine of not more than two thousand
34 dollars, or by both such fine and imprisonment.

35 (c) Whoever commits an assault and battery: (i) upon another
36 and by such assault and battery causes bodily injury, as defined in
37 this chapter; or (ii) upon another who is pregnant at the time of
38 such assault, knowing or having reason to know that the person is
39 pregnant; or (iii) upon another who he knows has an outstanding
40 temporary or permanent vacate, restraining, or no-contact order or
41 judgment issued pursuant to section eighteen, thirty-four B or
42 thirty-four C of chapter two hundred and eight, section thirty-two
43 of chapter two hundred and nine, section three, four or five of
44 chapter two hundred and nine A, or section fifteen or twenty of
45 chapter two hundred and nine C, in effect against him at the time
46 of such assault and battery, shall be punished by imprisonment in
47 the state prison for not more than five years or in the house of cor-
48 rection for not more than two and one-half years or by a fine of
49 not more than five thousand dollars, or by both such fine and
50 imprisonment.

51 (d) Whoever commits an assault or an assault and battery upon
52 another and by such assault and battery causes serious bodily
53 injury, as defined in section 13K of this chapter shall be punished
54 by imprisonment in the state prison for not less than three nor
55 more than five years or in a house of correction for not more than
56 two and one-half years or by a fine of not more than ten thousand
57 dollars, or by both such fine and imprisonment.

1 SECTION 2. Section 15A of chapter 265 of the General Laws,
2 as appearing in the 2002 Official Edition, is hereby amended by

3 striking out paragraph (b) and inserting in place thereof the
4 following paragraphs:—

5 (b) Whoever commits assault and battery upon another by
6 means of a dangerous weapon shall be punished by imprisonment
7 in the state prison for not more than ten years or in the house of
8 correction for not more than two and one-half years, or by a fine
9 of not more than five thousand dollars, or by both such fine and
10 imprisonment.

11 (c) Whoever, by means of a dangerous weapon, commits an
12 assault and battery: (i) upon another and by such assault and bat-
13 tery causes serious bodily injury; or (ii) upon another who is preg-
14 nant at the time of such assault and battery, knowing or having
15 reason to know that the person is pregnant; or (iii)) upon another
16 who he knows has an outstanding temporary or permanent vacate,
17 restraining, or no-contact order or judgment issued pursuant to
18 section eighteen, thirty-four B or thirty-four C of chapter two hun-
19 dred and eight, section thirty-two of chapter two hundred and
20 nine, section three, four or five of chapter two hundred and nine
21 A, or section fifteen or twenty of chapter two hundred and nine C,
22 in effect against him at the time of such assault and battery, shall
23 be punished by imprisonment in the state prison for not more than
24 fifteen years or in the house of correction for not more than two
25 and one-half years or by a fine of not more than ten thousand dol-
26 lars, or by both such fine and imprisonment.